



ARIZONA BOARD OF APPRAISAL

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MINUTES REGULAR BOARD MEETING Friday, May 20, 2011 9:05 AM

Call to Order and Roll Call

Regular Board meeting called to order by Les Abrams, Chairman.

Board members Present at Roll Call:

Les Abrams
Debbie Rudd
Myra Jefferson
James Heaslet
Michael Petrus
Joe Stroud
Mike Trueba
Kevin Yeanoplos

Staff Attendance:

Dan Pietropaulo – Executive Director
Jeanne Galvin – Assistant Attorney General
Amanda Benally – Staff
Rebecca Loar – Staff

Pledge Allegiance to the Flag of the United States of America

Approval of Minutes

Myra Jefferson made a motion to approve the April minutes. The motion was seconded by Debbie Rudd, Joe Stroud abstained, the motion passed.

Call to the Public

Art Gaudette, appraiser filed a Call to Public and spoke to the Board concerning complaints 2280-2301, inclusive against Kym R. Gaudette, his daughter. He presented documentation to the Board that in his opinion proved that the investigator for all twenty two complaints was in error by 20% to 35%. Mr. Gaudette informed the Board that he felt the discipline given to his daughter was excessive. In his opinion his daughter committed no fraud, but made some errors in her reports. The Board took no action.

Review and Action concerning 2901/2962/2963 Ken J. Rhoads

Respondent appeared. Debbie Rudd made the motion that the Board grant the respondent an additional 5 month extension to complete the required education due to the type of class and timeframe. James Heaslet seconded the motion, the Board voted unanimously in favor of the motion.

Review and Action concerning 3246 Deborah A. Nicolette

Respondent appeared. Staff summary was read. Complaint Alleges: Following an appraisal review, USPAP errors were found. Respondent Replies: This appraisal was signed by me in error as I did not perform the appraisal report. Debbie Rudd made the motion that the Board find no violations and dismiss the complaint. James Heaslet seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3232 Martin A. Riley

Respondent appeared. Staff summary was read. Complaint Alleges: The appraiser entered the property without permission, no lock box on the property, and did not consider the remodeling in the appraised value. Respondent Replies: ARMLS stated the property was vacant and on a lockbox. Upon inspection no lockbox was present but the rear patio slider door was open. Inside on the kitchen counter was a note from Southwest Gas saying they did not turn on service that day. I feel my report is credible and the data used supports my opinion of market value. The Board discussed concerns with respondent's choice of comparable sales, adjustments to comparable sales, and neighborhood boundaries, and the difficulties both the Board and respondent have found with the 1004MC form. James Heaslet suggested the respondent take the national appraiser examination. Debbie Rudd made the motion that the Board go into Executive Session to seek legal advice. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion. The Board entered into Executive Session. The Board returned from Executive Session. Debbie Rudd made the motion the Board find a Level 3 and offer a consent agreement for probation with mentorship citing violations: 1-1 (a), 1-2 (h), scope of work, 1-4 (a), 2-1 (a), and competency. James Heaslet seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3176 Henry R. Wieczorek, Jr.

Respondent appeared. The Board discussed concerns about the appraisal at 15997 Bartlet Avenue in Goodyear. Some of those concerns that there were no mention of the power lines near comparable sales number 2, the cost approach is higher than what the appraiser concluded in the sales approach indicating external depreciation should be applicable. Respondent did agree with the Board that he felt he needed more education in the cost approach and that he gets more from a class when in person versus online. Resolved under 3207.

Review and Action concerning 3207 Henry R. Wieczorek, Jr.

Respondent appeared. This complaint was tabled from the March 2011 Board Meeting where the staff summary was read into the record. Debbie Rudd found that comparable sales number one was in a gated community but not mentioned in the report. Debbie Rudd made the motion that the Board combine complaint 3176 and 3207 and find a Level 2 nondisciplinary letter of remedial action citing violations for complaint 3176; 1-4 (b), and for complaint 3207 1-4 (b); 1-1 (a); 2-1(a); and 1-4 (b) and requiring education. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3236 Issac J. Vasquez

Respondent appeared. Staff summary was read. Complaint Alleges: Appraiser made multiple factual errors nor any adjustments for views and upgrades. Respondent Replies: Accurate data and market research was done and the upgrades were typical for the market area, which would have no value related differences as it is considered to be common and/or average. James Heaslet made the motion the Board find no violations and dismiss the complaint. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 2280-2301, inclusive Kym R. Gaudette

Respondent appeared. James Heaslet made the motion that the Board approve respondent's request to terminate probation. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3237 Scott M. Larsen

Respondent appeared. Staff summary was read. Complaint Alleges: I found many errors, violations of ethics, and competency with this appraisal report. Respondent Replies: There were some miscues in typing, and I have taken corrective action to hopefully remedy these challenges going forward. Debbie Rudd discussed the typos found in the report and the fact that the appraisal submitted to the Board by the respondent did not

include his signature. Debbie Rudd mentioned to the respondent that in the future all appraisals turned into the Board must have the appraiser's signature. Debbie Rudd made the motion that the Board offer a nondisciplinary letter of concern citing violation 1-1 (c) for the typos found in the report. James Heaslet mentioned that he did not feel that warranted any Board action. Debbie Rudd withdrew her motion. James Heaslet made the motion that the Board find no violations and dismiss the complaint. Mike Trueba seconded the motion. Joe Stroud made a comment to the Board and to the respondent that there needs to be a greater value placed on the fact that the appraisal reports should be prepared correctly and properly. The respondent made the comment that the amount of typos is directly related to the amount of time allowed by the lender to produce the appraisals. The Board voted unanimously in favor of the motion.

Review and Action concerning 2806/2807 Eric S. Gow

Respondent was not present. James Heaslet made the motion to accept mentor. Mike Trueba seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3064 William J. Wisniewski

Respondent was not present. Debbie Rudd made the motion that the Board accepts respondent's counteroffer; find a Level 3 violation and offer a consent agreement and order for probation and disciplinary education. James Heaslet seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3119 Jay B. Clark

Respondent was not present. Debbie Rudd made the motion that the Board deny respondent's counteroffer and informed the Board that a typo from staff does not negate the violations found. The motion was made and to include the Board to reoffer proposed nondisciplinary remedial action letter to be signed by 14 business days from date of the letter. James Heaslet seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning 3187

Respondent was not present. Debbie Rudd made the motion that the Board accept mentor submitted by respondent. James Heaslet seconded the motion. The Board voted unanimously in favor of the motion.

12-month File Review

Dan Pietropaulo, Executive Director gave an update to the Board regarding the status of all complaints noted under this section.

Review and Action concerning A0008 Transcontinental Valuations, Inc.

Respondent was not present. Board summary was read. This is a Board opened complaint against a registered AMC for failure to provide the required surety bond. All mailed correspondence to the AMC has gone to the business address that was provided by them in their application and letters sent to the AMC have not been returned to the Board. Amanda Benally informed the Board that proof of service was provided. Debbie Rudd made the motion that the Board refer this matter to formal hearing for revocation. James Heaslet seconded the motion. The Board voted unanimously in favor of the motion.

Review and Action concerning A0011 eTEC Appraisal Management Solutions

Respondent was not present. Board summary was read. All mailed correspondence to the AMC has gone to the business address that was provided by them in their application as well as the residential address of the owner. Letters sent to the AMC have not been returned to the Board. Amanda Benally informed the Board that proof of service was provided. Dan Pietropaulo, Executive Director informed the Board of his additional research that was done to try to locate the property address listed on the AMC application and validate the address. See New Business for final resolution.

Review and Action concerning A0012 eTEC Appraisal Management Solutions

Respondent was not present. Board summary was read. All mailed correspondence to the AMC has gone to the business address that was provided by them in their application as well as the residential address of the owner. Letters sent to the AMC have not been returned to the Board. Amanda Benally informed the Board that proof of service was provided to the respondent. See New Business for final resolution.

New Business: Discussion, consideration, and possible action concerning eTEC Appraisal Management Solutions registrations No. 40083 and various complaints received from appraisers

Dan Pietropaulo explained to the Board that he has been getting multiple complaints for failure to pay the appraiser. Most of these complaints were from appraisers out of state. The original owner transferred ownership and the surety bond is being cancelled. There was some discussion on the possibility of the Board filing a claim against the company's surety bond. There was some possibility of issuing a summary suspension. Mr. Clay Gregory who was previously employed by the AMC informed the Board that he has filed a complaint against the company to the Board. Amanda Benally informed the Board that Mr. Gregory's complaint is still pending a response from the AMC before it can go before the Board. Mr. Gregory answered the Board's questions regarding the AMC. He confirmed that the father Jerry Richards currently lives in Georgia and Brandon currently lives in Florida. Jeanne Galvin, Assistant Attorney General informed the Board that the surety bond will cover any actions until June 14th. Jeanne Galvin, Assistant Attorney General suggested that at the Board could summarily suspend the respondent under Article 32-3679 and in accordance with Title 41, Chapter 6, Article 10. The Board could take action on A0011 and A0012 and review A0015. If it's the Board's desire at that time, they can combine all three cases and issue a summary suspension. Debbie Rudd made the motion that the Board allow staff and legal counsel to investigate and prepare in case A0011 and A0012 a possible summary suspension for eTEC Appraisal Management Solutions and secondly a possible telephonic meeting would be held to discuss a summary suspension and at that meeting prior to the consideration of A0011 and A0012 be forwarded to the board for consideration as well. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion. Jeanne Galvin, Assistant Attorney General also informed Board staff that they can notify the bond company of the Board's decisions today. There was some discussion from Joe Stroud of his concern in notifying the appraisal regulated community who might try to get work from this company in the mean time. And asked if the Board could file a complaint with corporation commission. Jeanne Galvin, Assistant Attorney General responded and notified the Board that Dan Pietropaulo, Executive Director will be sending out a newsletter and referring to the Board minutes from today's meeting in draft form regarding possible disciplinary actions relating to AMCs. And if the Board felt it warranted a complaint, the Board could file a complaint against the AMC with the Corporation Commission.

Review and Action concerning A0013 Appraiser Loft, LLC

Respondent was not present. Debbie Rudd informed the Board that this complaint was opened due to the AMCs failure to pay the appraiser and now the AMC has paid the appraiser. James Heaslet made the motion that the Board offer a nondisciplinary letter of concern concerning AMCs failure to pay appraiser in a timely manner. Myra Jefferson seconded the motion. The Board voted unanimously in favor of the motion.

Chairperson Report concerning committee assignments

Les Abrams announced that Joe Stroud has volunteered to join the Board Outreach Committee and James Heaslet has been removed from the Board Outreach Committee.

Executive Director Report

Jeanne Galvin, Assistant Attorney General informed the Board that she is a slightly behind in her assignments from April. Dan Pietropaulo, Executive Director passed out the complaint statistics report see attached.

	January	%	February	%	March	%	April	%	Total	Total %
Complaints Received by Board	14		5		14		14		47	
Number of Respondents (of complaints received)	14		5		13		14		46	
Number of Agenda Items	34		40		22		39		135	
Board Actions										
Dismissed	3	18.75%	6	30.00%	9	69.23%	5	18.52%	23	30.26%
Nondisciplinary Letter of Concern	5	31.25%	2	10.00%	0	0.00%	0	0.00%	7	9.21%
Nondisciplinary Remedial Action	4	25.00%	0	0.00%	2	15.38%	2	7.41%	8	10.53%
Due Diligence	0	0.00%	1	5.00%	2	15.38%	1	3.70%	4	5.26%
Probation	4	25.00%	5	25.00%	0	0.00%	11	*4 40.74%	20	26.32%
Suspension	0	0.00%	5	*3 25.00%	0	0.00%	8	*5 29.63%	13	17.11%
Surrender	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Revocation	0	0.00%	1	5.00%	0	0.00%	0	0.00%	1	1.32%
Cease & Desist	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Total Board Actions	16	100.00%	20	100.00%	13	100.00%	27	100.00%	76	100.00%
Other Board Actions										
Ref. to Investigation	2	66.67%	0	0.00%	3	60.00%	1	25.00%	6	21.43%
Informal Hearing	0	0.00%	16	100.00%	0	0.00%	2	50.00%	18	64.29%
Formal Hearing	1	33.33%	0	0.00%	2	40.00%	1	25.00%	4	14.29%
Total Other Board Actions	3	100.00%	16	100.00%	5	100.00%	4	100.00%	28	100.00%
Violation Levels										
No Violation (Closed, Other, Etc.)	10	76.92%	10	71.43%	13	325.00%	5	22.73%	38	71.70%
I	5	38.46%	2	14.29%	0	0.00%	0	0.00%	7	13.21%
II	4	30.77%	1	7.14%	4	100.00%	3	13.64%	12	22.64%
III	3	23.08%	10	71.43%	0	0.00%	6	27.27%	19	35.85%
IV	1	*1 7.69%	0	0.00%	0	0.00%	13	59.09%	14	26.42%
V	0	0.00%	1	7.14%	0	0.00%	0	0.00%	1	1.89%
Total Violations	13	100.00%	14	100.00%	4	100.00%	22	100.00%	53	100.00%
Complaints Closed as of 2011										
Closed due to Expiration	8	*2	5		0		2		19	
Closed - Other	0		0		0		0		0	
Total Closed Complaints	8		5		0		2		19	

*1 Level 4 Probation and Mentorship for James A. Gonzalez #3175, *2, 7 complaints for William H. Moffett #2385-2391, inclusive, *3, James R. Nelson Summary Suspension 3071/3085/3195/3199/3226, *4, Scott A. Gary 2926-2930, inclusive, *5, John S. Colman Suspension 2975-2982, inclusive

And there were 5 complaint replies extended by staff. There was some discussion about the need for all Board members to sign in and out to help keep track of attendance as requested by the Arizona Department of Administration auditor. There was some discussion regarding a newspaper article found in the Valley and State dated for today May 20, 2011 "Service-worker law stirs debate" and that this will go into effect in July and relates to any persons; i.e. Real-estate agents, cosmetologists, and tens of thousands of restaurant employees will soon have to hand over photo identification and proof that they are in the country legally in order to get the government issued photo license certificate or permit to do their job. Jeanne Galvin informed that Board that this is an amendment to Title 41, Chapter 10, Article 80, and up until this year this did not apply to the Board because this only applied if you were operating a business, now that definition has been expanded to include someone who provides a service and this would apply to the Board and what the Board may accept when reviewing an application. There was some discussion of the needs for the Board to possibly provide a license and or certificate with photo identification. The Board chairperson, Les Abrams directed Dan Pietropaulo, Executive Director to look into this matter and how it would and could impact the Board and the appraisal community.

Application Review Committee

The following Arizona appraiser and property tax agent information as of 5-10-11

A. Report on number of Arizona Appraisers and Property Tax Agents:

	<u>5/09</u>		<u>5/10</u>		<u>5/11</u>
Licensed Residential	791		577		435
Certified Residential	1225		1211		1185
Certified General	819	Total 2835	817	Total 2605	801
Nonresident Temporary	45		43		84
Property Tax Agents	316		359		358
				Total 2421	

James Heaslet recommended that the Board approve all items on the application review committee with the exception to Donn H. Byrne. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion. Dan Pietropaulo, Executive Director explained the issue regarding Donn H. Byrne's request to take the USPAP class online instead of in-class and read Mr. Byrne's email into the record.

Jeanne Galvin, Assistant Attorney General reminded that the Board is required to follow their rules and that this is not an American with Disabilities Act (ADA) decision. James Heaslet made the motion that the Board deny Mr. Byrne's request. Debbie Rudd seconded the motion. The Board voted unanimously in favor of the motion. James Heaslet made a recommendation that the Board staff notify Mr. Byrne immediately via telephone following this meeting.

Appraisal Testing and Education Committee

Debbie Rudd recommended that the Board approve all items on the appraisal testing and education committee. James Heaslet seconded the motion. The Board voted unanimously in favor of the motion.

New Business: Discussion, consideration, and possible action concerning American Appraisal Group registration No. 40059 cancelling their surety bond and asking to cancel their registration

There was some discussion regarding the requirements for AMCs to have a bond, a possibility for bonds to be paid in advance and enforcement requirements for AMCs to have a bond when filing an application. Debbie Rudd made the motion that the Board allow Jeanne Galvin,

Assistant Attorney General to negotiate a voluntary surrender with the AMC. James Heaslet seconded the motion. The Board voted unanimously in favor of the motion.

New Business: Discussion, consideration, and possible action relating to House Bill HB 2541 and the possible impact of medical marijuana upon the regulation of the appraisal profession

James Heaslet asked that this matter be placed on the agenda so the Board could be proactive and not reactive to this issue. Dan Pietropaulo, Executive Director informed the Board how the Arizona Department of Administration is handling this issue in relation to employee and employer issues. Jeanne Galvin, Assistant Attorney General informed the Board that the Attorney General will be issuing a memorandum to all state agencies on formal guidelines and how to implement them and that will be coming out very soon.

Old Business: Discussion, consideration, and possible action relating to the audit of James K. Amoako's appraisal log over the last 60-days.

Debbie Rudd had some concerns regarding appraisal number one located on 6421 W. Valencia Drive in Laveen, Arizona. It was suggested by the Board that this be tabled until next month.
ed.

Confirmation of Meeting Dates, Time, Locations, and Purposes

Rebecca Loar informed the Board that the July Board meeting has been changed to Thursday July 21, 2011 for Application Review at 3:00 p.m. and Education at 3:30 p.m. And that the regular Board Meeting will be on Friday July 22, 2011 at 9:00 a.m.

Rules Committee

Jeanne Galvin, Assistant Attorney General gave an update to the status of the Rules Committee and that it is the intent of the committee to direct Dan Pietropaulo, Executive Director to open a docket for the Uniform Standards of Professional Appraisal Practice (USPAP) 2012-2013 and the national registry fee change. The Board already has a docket open for the AMC rules. The committee will meet again in June at 8 a.m. right before the regular Board meeting. The rules moratorium will be on the Rules Committee Agenda for June. Jeanne Galvin, Assistant Attorney General informed the Board that the committee made some changes and minor tweaking and it is the Board staff's intent to have all those changes made and the final copy sent out so the committee can recommend to the Board to open a docket and file a notice of proposed rule making in June.

Adjournment

The meeting was adjourned.



Lester G. Abrams, Chairperson